

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

PHILLIP CARROLL,)	
)	
<i>Plaintiff,</i>)	
)	
vs.)	No.: 1:19-cv-224-JMS-MG
)	
BMW OF NORTH AMERICA, LLC and)	
BAVARIAN MOTOR WORKS,)	
)	
<i>Defendant.</i>)	

ORDER

This matter is before the Court on Defendant BMW of North America, LLC's ("BMW") Motion to Reconsider and Brief in Support of Maintaining Filings Under Seal, [[Filing No. 143](#)], in which BMW asks the Court to revisit its denial, [[Filing No. 142](#)], of Plaintiff's Amended Motion to Maintain Documents Under Seal, [[Filing No. 136](#)].

Pursuant to Local Rule 5-11(d)(2)(A), Plaintiff Phillip Carroll moved to maintain various documents under seal because they contain, or reference, information designated "confidential" by BMW pursuant to a protective order entered in a companion case in the U.S. District Court for the District of Massachusetts. [*see* [Filing No. 136-1](#).] Local Rule 5-11 further requires the designating party to file, within 14 days of service of the motion to seal, either a statement authorizing the unsealing of the filings or a brief in support of maintaining the filings under seal. Because BMW did not file any response to Mr. Carroll's motion to maintain the document under seal, the Court denied the motion as it related to Plaintiff's Response to the Defendant's Motion to Exclude the Opinions and Testimony of Plaintiff's Expert, Darren Manzari, [[Filing No. 135](#)], and directed the Clerk to unseal Filing No. 135 after 21 days, absent any motion to reconsider, appeal, or further court order. [[Filing No. 142](#).] The Court also denied Mr. Carroll's original motion, [[Filing No.](#)

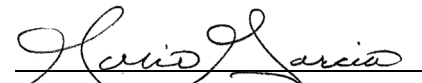
[133](#)], as it related to Filing No. 132, as moot. BMW now files this motion to reconsider, [\[Filing No. 143\]](#), and argues that there is good cause to maintain Filing Nos. 132 and 135 under seal.

Specifically, BMW argues that Filing Nos. 132 and 135 should be maintained under seal because "this Court has Ordered that the underlying documents shall remain sealed on three other occasions," referencing Filing Nos. 119, 121 and 140. [\[Filing No. 143.\]](#)

In the Court's March 22, 2021 Order denying Mr. Carroll's motion to maintain documents under seal, the Court noted that Mr. Carroll's original motion, [\[Filing No. 133\]](#), cited to Filing No. 132, but this document is a publicly available, redacted version of the document, and denied Filing No. 133 as moot. [\[Filing No. 142 at FN 1.\]](#) The same argument has been made by BMW to maintain Filing No. 132 under seal, however, the Court reaches the same conclusion for Filing No. 132 as it did in its March 22 order. Filing No. 132 is a publicly available, redacted version of Filing No. 135. Thus, the Court **DENIES the Defendant's Motion, [143], as it relates to [132] as moot.**

As to Filing No. 135, although the parties should have offered their rationale earlier as required by S.D. Ind. L.R. 5-11, BMW belatedly sets forth good cause for maintaining Filing No. 135 under seal due to the confidential nature of the Reports and Measurements documents and the "trade secrets" contained in the documents. The Court **GRANTS the Defendant's Motion, [143], as it relates to [135]. Therefore, the Court's prior order, [142], is modified and the Court GRANTS the Plaintiff's motion to maintain seal, [136], as it relates to [135]. The Clerk shall MAINTAIN [135] under seal.**

Dated: 4/20/2021


Mario Garcia
United States Magistrate Judge
Southern District of Indiana

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